United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

22351-22375

[Approved by the Acting Secretary of Agriculture, Washington, D. C., Nov. 17, 1934]

22351. Adulteration and misbranding of Dunlop Pyorrhea Paste and Dunlop's Ethyl Borate. U. S. v. Julius F. Emme (Emme Dental Specialty Co.). Plea of guilty. Fine, $30. (F. & D. no. 27534. I. S. nos. 28789, 28790.)

Examination of the drug preparations involved in this case showed that they contained no ingredients or combinations of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling. Analyses showed that the articles contained less alcohol than declared and that the alleged "ethyl borate" was not ethyl borate. Tests of the alleged ethyl borate showed that it did not possess the antiseptic properties claimed.

On April 3, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Julius F. Emme, trading with others as the Emme Dental Specialty Co., St. Paul, Minn., alleging shipment by said defendant on or about May 19, 1931, from the State of Minnesota into the State of Maryland, of quantities of Dunlop Pyorrhea Paste and Dunlop's Ethyl Borate which were adulterated and misbranded.

Analyses of samples of the articles by this Department showed that the pyorrhea paste was an opaque semifluid consisting essentially of boric acid, glycerin, alcohol, and oil of peppermint; and that the ethyl borate consisted essentially of an aqueous solution of boric acid, with odor of oil of peppermint, and a small amount of alcohol. Tests of the ethyl borate showed that it was not an antiseptic when used as directed.

It was alleged in the information that the pyorrhea paste was adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, since it was represented to contain 20 percent of alcohol, whereas it contained not more than 4.17 percent of alcohol.

Adulteration of the ethyl borate was alleged for the reason that its strength and purity fell below the professed standard and quality under which it was sold, in that it was represented to be an antiseptic when used as directed, it was represented to be ethyl borate, and it was represented to contain about 7 percent of alcohol; whereas it was not an antiseptic when used as directed, it was not ethyl borate, and it contained less than 7 percent of alcohol, namely, not more than 0.55 percent of alcohol.

Misbranding of both products was alleged for the reason that the statement, "20% alcohol", with respect to the Dunlop Pyorrhea Paste, and the statements, "not over 7% alcohol", "a mild but powerful antiseptic", "ethyl borate", and "antiseptic mouth wash", with respect to the ethyl borate, were false and misleading. Misbranding was alleged with respect to both products for the further reason that they contained alcohol and the labels failed to bear a statement of the quantity or proportion of alcohol contained therein.

Misbranding of the ethyl borate was alleged for the further reason that it was an aqueous solution of boric acid and was offered for sale under the name of another article.

Misbranding of the pyorrhea paste was alleged for the further reason that certain statements, designs, and devices regarding the curative and therapeutic

effects of the article falsely and fraudulently represented that it was effective as a treatment of pyorrhea and mouth diseases; effective to insure healthy teeth; effective as a preventive of infection; effective to give quick relief in all cases to gum and tissue diseases and to greatly retard the advancement of these infections; effective as a treatment, remedy, and cure for trench mouth or Vincent's disease; and effective to neutralize and discharge all poisonous matter that accompanies trench mouth or Vincent's disease.

Misbranding of the ethyl borate was alleged for the further reason that certain statements, designs, and devices regarding the curative and therapeutic effects of the article, appearing in the labeling, falsely and fraudulently represented that it was effective as a treatment for pyorrhea and pus diseases; effective as a treatment for trench mouth, canker sores, and all other mouth and gum diseases; effective as a treatment for purulent alveolitis, bleeding and spongy gums; effective to keep the tissues of the mouth and throat in a healthy condition; effective as a treatment for sore throat and tonsilitis, cuts and wounds; and effective to keep the gums firm.

On April 7, 1934, the defendant entered a plea of guilty, and the court imposed a fine of $30.

M. L. WILSON, *Acting Secretary of Agriculture.*

22352. Misbranding of Or-Aid. U. S. v. Or-San Co. Plea of guilty. Fine, $25. (F. & D. no. 28053. I. S. no. 44220.)

This case involved a shipment of Or-Aid, a product represented to possess germicidal properties. Bactericidal tests showed that it would not destroy germs commonly encountered in the conditions against which the product was directed and intended; it was not a germicide under conditions of practical use, and infecting bacteria could not be killed by Or-Aid, when used as directed. Analysis showed that the article did not contain certain ingredients claimed.

On October 23, 1933, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Or-San Co., a corporation, Minneapolis, Minn., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 22, 1931, from the State of Minnesota into the State of Wisconsin, of a quantity of Or-Aid which was misbranded.

Analysis of a sample of the article by this Department showed that it consisted essentially of zinc chloride, zinc sulphate, boric acid, a small proportion of sodium compounds, water, and oil of peppermint.

It was alleged in the information that the article was misbranded in that the statements, "Destroys Germs", borne on the carton, and the statements, "Destroys Germs", "It is a Germicide * * * since bacteria can be killed by the use of Or-Aid", "The formula contains * * * Emetine Hydrochloride * * * and germicidal oils", contained in the circular, were false and misleading, since the article was not a germicide, bacteria could not be killed by its use, and it contained no emetine hydrochloride and no germicidal oils.

On October 23, 1933, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $25.

M. L. WILSON, *Acting Secretary of Agriculture.*

22353. Misbranding of Dr. Livingston's Regenerator, Dr. Livingston's Dyspepsine, Search Warrant Liniment, Dr. Livingston's Re-Gem, Dr. Livingston's Root and Herb Tea, and Dr. Livingston's Golden Catarrh Balm. U. S. v. John W. Livingston (The Livingston Medicine Co., Search Warrant Liniment Co.). Plea of guilty. Sentence suspended and defendant placed on probation for two years. (F. & D. nos. 26690, 28079. I. S. nos. 14485, 27109, 27527, 27528, 27532 to 27536, incl.)

Examination of the drug preparations on which these cases were based showed that they contained no ingredients or combinations of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling. Among the preparations was a shipment of Dr. Livingston's Regenerator, the labeling of which contained false and misleading claims that the article was of vegetable composition, that it conformed to the Food and Drugs Act, and that it could be taken freely by young and old without fear of injurious effects. Two shipments of Re-Gem, formerly Regenerator, also covered by the case, were labeled with false and misleading claims. One of the products, Search Warrant Liniment, contained less alcohol than declared on the label.